

EXHIBIT 4

031006wm jp

1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CORPORAL TRINIDAD NAVARRO,)
Plaintiff,)
v.) Civil Action
CHRISTOPHER A. COONS,) Number 05-565 (GMS)
individually and in his) JURY TRIAL DEMANDED
official capacity; GUY H.)
SAPP, individually and in)
his official capacity; and)
NEW CASTLE COUNTY, a)
municipal corporation,)
Defendants.)

Deposition of WILLIAM SCOTT McLAREN, taken
pursuant to notice at the law offices of Margolis
Edelstein, 1509 Gilpin Avenue, Wilmington, Delaware,
beginning at 2:03 p.m., on Friday, March 10, 2006,
before Julie H. Parrack, Registered Merit Reporter,
Certified Realtime Reporter and Notary Public.

APPEARANCES:

JEFFREY K. MARTIN, ESQUIRE
MARGOLIS EDELSTEIN
1509 Gilpin Avenue
Wilmington, Delaware 19806
On behalf of Plaintiff

JEFFREY S. GODDESS, ESQUIRE
ROSENTHAL, MONHAIT, GROSS & GODDESS, P.A.
919 Market Street, Suite 1401
Wilmington, Delaware 19899-1070
On behalf of Defendants Coons and Sapp

WILCOX & FETZER
1330 King Street - Wilmington, Delaware 19801
(302) 655-0477

William Scott McLaren

2

1 APPEARANCES CONT'D:

2 MICHELE D. ALLEN, ESQUIRE
MEGAN SANFRANCESCO, ESQUIRE
Page 1

3 031006wm jp
4 NEW CASTLE COUNTY LAW DEPARTMENT
5 87 Reads Way
6 New Castle, Delaware 19707
7 On behalf of Defendant New Castle County

8 ALSO PRESENT: TRINIDAD NAVARRO

9
10 - - - - -
11
12 WILLIAM SCOTT McLAREN,
13 the deponent herein, having first been duly
14 sworn on oath, was examined and testified as
15 follows:

16 BY MR. MARTIN:

17 Q. Colonel, my name is Jeff Martin, and I
18 represent Trinidad Navarro in this litigation.

19 15 First, let me ask whether you've ever had
20 16 your deposition taken?

21 A. 17 Yes, sir.

22 Q. 18 Okay. So you understand the basic rules?

23 A. 19 Yes, sir.

24 Q. 20 If you have any questions or concerns, please
21 don't hesitate to ask. And certainly if you need to
22 take a break at any time, we would invite you to do
23 that. I don't expect to be real long. Actually, I'm
24 hoping we can wrap this up in less than an hour, but

William Scott McLaren

3

1 1 that all depends on the answers you give and any
2 2 follow-ups I have. So with that in mind, why don't we
3 3 commence.

4 4 May I have your current rank, please?

5 5 A. It's acting chief of police.

6 6 Q. Okay, for New Castle County Police, correct?

7 7 A. Correct.

031006wm jp

17 operational and administrative sections of the
18 department.

19 Q. And in that interval from the end of July until
20 now, have you had any change in your responsibilities
21 as acting chief?

22 A. Yes. As far as being involved in more
23 interaction with County Council, attending committee
24 meetings, statewide committee participation,

□ William Scott McLaren

12

1 discipline matters, hiring academies.

2 Q. I'm not sure what you're saying. Are you
3 saying that these various items have changed in some
4 way?

5 A. This is -- as I took on the role of acting
6 chief, the acting chief is the only one that can
7 initiate internal investigation and do discipline and
8 make recommendations to the chief human resource
9 officer. The chief of police makes recommendations as
10 far as hiring and termination for officers, and
11 involvement in promotional process.

12 Q. You said involved in the promotional process.
13 What do you mean by that?

14 A. Depending on the situation that we're in, if
15 there is a current list and if there is a current
16 vacancy to look at that list, receive authority to
17 make that promotion through a req procedure, an
18 electronic req.

19 Q. Requisition?

20 A. Yes, being filled.

21 Q. What interaction do you have with the director
Page 10

031006wm jp

22 of public safety?

23 A. Daily interaction.

24 Q. Now, your office is located at the police

William Scott McLaren

13

1 department headquarters; is that correct?

2 A. Yes, sir.

3 Q. Where is the office of the director of public
4 safety?

5 A. Directly across the hall.

6 Q. And what types of interactions do you have, as
7 you said, on a daily basis with the director?

8 A. E-mails, meetings, conversations over a host of
9 subjects. If he gets any complaints or has any issues
10 from County Council, it gets forwarded to me to look
11 at. It changes every day.

12 Q. All right. I'd like to try to understand your
13 role as acting chief in terms of managing and
14 controlling what happens in New Castle County Police
15 Department versus the role that Mr. Sapp, who is the
16 director of public safety, may have.

17 Can you please try to address that?

18 A. It's my understanding that the director has
19 overall authority over the Department of Public Safety
20 for New Castle County, which is police, EMS,
21 communications, 911, crossing guard, so forth, so on.

22 My role is day-to-day operations for the
23 division.

24 Q. Do you recall that there have been two budgeted

William Scott McLaren

14

031006wm jp

1 positions for the rank of sergeant that were not
2 filled at the end of the last fiscal year?

3 A. I don't have any direct knowledge of that.
4 When the colonel was still here, Colonel McAllister,
5 he did make me aware of that, but he was more or less
6 involved in the process at that time with the
7 director.

8 Q. And your tenure began as acting chief, you
9 said, July 25, correct?

10 A. Yes, sir.

11 Q. Okay. Were you aware of Mr. Sapp saying that
12 New Castle County needed more police officers on the
13 street rather than having sergeants in a non-street
14 capacity?

15 A. That was involving one conversation. We were
16 concerned if taking from patrol at that point was
17 appropriate to make sergeants.

18 Q. So this is a conversation that you had with
19 Mr. Sapp?

20 A. Yes.

21 Q. And can you give me the approximate time frame
22 for that conversation?

23 A. It was during the process, just prior to the
24 two sergeants that were the most recent sergeants. I

□ William Scott McLaren

15

1 don't have exact date.

2 Q. Did this happen in the last month or two?

3 A. No, '05 I would have to guess around October,
4 November, and that would be a guess.

031006wm jp

9 Q. Okay. In what instances did you, as the acting
10 chief, approach the director and say you wanted to
11 make these changes? Was that in all moves, transfers?

12 A. Yes.

13 Q. And why is it that you had to get Mr. Sapp's
14 okay before making these transfers?

15 A. When Mr. Sapp first came -- well, when I was
16 moved into the acting position, we sat down and he
17 asked just to keep, continuing to keep the department
18 running, and that we knew in the future there would
19 probably be some suggestions for transfers or
20 whatever, that he would want to be kept in the loop
21 before any of that actually comes out on paper.

22 Q. So this is something that Mr. Sapp told you
23 that he needed to sign off on before you made these
24 transfers?

□ William Scott McLaren

23

1 A. Yes, sir.

2 Q. All right. And did Mr. Sapp likewise have a
3 role in terms of signing off on a promotion when a
4 promotion was made?

5 A. The process had to be explained to him on how
6 we came about a name, and then it was moved on from
7 his office.

8 Q. All right, you said the process had to be
9 explained to him.

10 A. Yes.

11 Q. What do you mean by that?

12 A. In how we came about the name, if there was any
13 consensus with that, who was involved in the decision

031006wm jp

14 making, if all staff was present and agreed on whoever
15 the person was selected.

16 Q. All right. So that's something that you
17 reported on each time --

18 A. Yes, sir.

19 Q. -- to him?

20 A. Yes, sir.

21 Q. And was it necessary before you made a
22 promotion that Mr. Sapp signed off on it?

23 A. Yes, sir.

24 Q. Did you understand that this had been the

□ William Scott McLaren

24

1 procedure before you became acting chief?

2 A. No.

3 Q. No, meaning what?

4 A. No, it wasn't the procedure. Well, I mean,
5 there was no public safety director prior to Mr. Sapp,
6 unless you go back years, to Mr. Dave Chillas, which
7 was 10 years ago. So I really can't speak of the
8 process that then Colonel McAllister had and went
9 through. I only can speak about the process that I
10 had to go through.

11 Q. Well, when McAllister was the acting, or the
12 chief, what was your position within the department?

13 A. Lieutenant colonel.

14 Q. And were you the deputy --

15 A. Yes, sir.

16 Q. -- chief? So were you conferring with Colonel
17 McAllister on these various issues, such as transfers
18 and promotions?

031006wm jp

19 A. Yes, sir.

20 Q. All right. Do you know whether Colonel
21 McAllister had Mr. Sapp sign off on transfers and
22 promotions during his tenure?

23 A. I don't believe so.

24 Q. So is it fair to say then your understanding is

william Scott McLaren

25

1 that this process changed when you were appointed
2 acting police chief?

3 A. Yes, sir.

4 Q. And were you told during this time period that
5 this process was going to change?

6 A. No. Like I said, when I was moved into the
7 acting position, the director came in and asked that
8 any time any major move or any item of substance came
9 up, as far as like a homicide or something like that,
10 he wanted to be kept in the loop and advised before
11 any actions are taken. I shouldn't say actions with
12 homicide, but actions with internal movements.

13 Q. What was your understanding, if any, as to the
14 authority that Mr. Sapp had for making this demand
15 upon you?

16 A. The fact that he was the director of public
17 safety appointed by the county executive.

18 Q. Do you know whether there was any statutory
19 authority that the public safety director had or has?

20 A. Now, yes. Then, no.

21 Q. Okay. When you say "now, yes," when do you
22 mean "now"?

23 A. There was a recent county ordinance passed

031006wm jp

24 giving the director of public safety full authority

□ William Scott McLaren

26

1 over all public safety, police, EMS, communications.

2 Q. All right. And what's your understanding as to
3 when that ordinance was passed?

4 A. Just recently.

5 Q. All right, does that mean in the last month or
6 so?

7 A. I believe in the last two months maybe. Two,
8 possibly three.

9 Q. All right. How do you feel as police chief?
10 How does that affect your role as police chief?

11 A. How does what affect it?

12 Q. This new ordinance.

13 A. It changes the police chief's role a little
14 bit, whereas other people have to be involved in the
15 decision-making process.

16 Q. So I take it that your understanding is that
17 before this ordinance was passed, it was the police
18 chief's authority to transfer and to promote without
19 having someone above him or her to sign off; is that
20 fair to say?

21 A. Under state law, yes.

22 Q. Now, last summer after you came on, were you
23 aware that many of your police officers were being --
24 I'm not sure if loaned is the correct term -- but

□ William Scott McLaren

27

1 redeployed to work in the City of Wilmington?

031006wm jp
17 speak to County Law shortly after we had that
18 conversation --

19 Q. All right, well please don't tell me what
20 County Law said.

21 A. Okay.

22 Q. I mean that's forbidden under our circumstances
23 here. I just want to let you know, okay.

24 All right, but when I said did you

□ william Scott McLaren

31

1 challenge that, I mean was there anything that you did
2 during your tenure as acting chief, which I know
3 continues to this day, for which you received some
4 type of discipline or some type of other -- well,
5 let's say discipline from Mr. Sapp or Mr. Coons?

6 A. I've never been disciplined or threatened with
7 discipline. I was concerned, again, another gray area
8 that if I was given an order and didn't follow it, if
9 it would be insubordination or whatever that would
10 fall under.

11 Q. All right. Were there any of those
12 circumstances?

13 A. There was one I made the director aware of that
14 recent deployment or request for deployment, and I
15 talked to the staff about it, and the staff questioned
16 my legal authority to give that order.

17 Q. But you're the chief.

18 A. Correct.

19 Q. What was the basis --

20 A. Acting chief.

21 Q. I'm sorry?

22 A. Acting chief. 031006wm jp

23 Q. Acting chief. Well, you're serving as the
24 chief, are you not?

□ William Scott McLaren

32

1 A. Yes, sir.

2 Q. I mean do you have -- let me ask. As acting
3 chief, do you not have the full powers of the chief of
4 police?

5 A. Yes.

6 Q. Yes, you do have the full powers?

7 A. Yes, I do.

8 Q. Okay. So in this circumstance that you just
9 discussed, do you understand the basis why your staff
10 may have challenged your authority to act?

11 A. Because at the time it did not fully agree with
12 the direction that other people wanted to go in.

13 Q. Can you be more specific?

14 A. Yes, the director wanted me to deploy resources
15 into the city of Wilmington.

16 Q. What resources?

17 A. Detectives.

18 Q. For what purpose?

19 A. To assist the city of Wilmington with a recent
20 homicide they had this year. I don't have the exact
21 date.

22 Q. And what was your response?

23 A. That Wilmington Police did not call and ask for
24 assistance, and that I would call Chief Sczerba and

□ William Scott McLaren

33

031006wm jp

1 see if he needed any assistance, which I did.

2 Q. And did you end up sending detectives there?

3 A. Ended up sending the then commander of the
4 investigative section, Captain Mark Hitch in with a
5 couple detectives to sit down with detectives from the
6 City of Wilmington where they explained their case,
7 what they had, and we offered resources to them at
8 that point.

9 Q. So if that's the case, how is it that you may
10 have violated what the director wanted you to do?

11 A. I didn't, there's -- when you're -- there's an
12 investigation mode, and then there's a briefing mode,
13 which is totally different, night and day.

14 Q. All right --

15 A. In my opinion.

16 Q. When I started asking on this line of
17 questions, I thought you had suggested that there was
18 a circumstance where you did not follow what the
19 director wanted you to do.

20 A. Not to the letter of the law. He wanted me to
21 send detectives in the City of Wilmington to
22 investigate a homicide without being, the request
23 coming from the City of Wilmington. There's such
24 things as home rule that affect that, mutual aid

□

William Scott McLaren

34

1 agreements, and the fact that I had been a detective
2 for 11 years, and it's not very good to have two
3 separate entities investigating the same homicide.

4 So more or less a compromise was struck
5 where I sent people in, they were briefed on the case,

031006wm jp

6 and a proffer was put at that time to the City of
7 Wilmington if they need any assistance, they would
8 contact us.

9 Q. Is it fair to say that with any significant
10 decision you make as acting chief, you clear that with
11 the director of public safety?

12 A. If it's something --

13 MS. SANFRANCESCO: I object. Can you just
14 clarify what you mean by "significant decision"?

15 MR. MARTIN: Well, if I may, I mean I
16 think you can make an objection, and he can answer the
17 question. I don't know that I have a --

18 MS. SANFRANCESCO: Then I'll just object
19 to the form of the question then.

20 MR. MARTIN: Okay, that's fine.

21 Q. Do you understand what the question was?

22 A. Yes. If I have a time and there's a long-term
23 or short-term plan or a change in the organization,
24 then I have time to sit down with the director, yes, I

William Scott McLaren

35

1 will. If it's an operational issue, such as
2 something's going on with an investigation where funds
3 have to be freed up, additional people have to be
4 called in, overtime issues, evidence being sent to a
5 certain location, that decision is made on the spot.
6 And those decisions have to be made on the spot.

7 Q. Okay. There's a process in the New Castle
8 County Police Department for investigations of
9 officers. Is that fair to say?

10 A. Yes, sir.

031006wm jp

11 Q. And is that through professional standards?

12 A. Yes, sir.

13 Q. Do you recall whether there have been any
14 investigations of New Castle County Police officers
15 that have been done without your knowledge or
16 approval?

17 A. This is getting into a little bit of a gray
18 area, because I'm prohibited to talk about any
19 internal investigations by the police --

20 Q. I'm not going to ask you specifics on that.

21 A. Okay, can you -- question again?

22 MS. SANFRANCESCO: I'm going to object to
23 the form of the question as well for the record.

24 MR. MARTIN: Okay. Julie, can you help me
william Scott McLaren 36

1 here, please?

2 (The requested portion was read.)

3 Q. All I'm asking for is a yes or no without any
4 details as to what the investigations are.

5 A. It's hard to answer yes or no, because there's
6 investigations and there's inquiries. So I guess to
7 answer your question, yes.

8 Q. Do you know whether that type of thing occurred
9 during the administrations of past New Castle County
10 Police chiefs?

11 A. I would be guessing, and I really have no
12 direct knowledge.

13 Q. All right, well I don't want you to guess. But
14 you were deputy chief under McAllister, correct?

15 A. Yes.

031006wm jp

16 Q. what was your understanding, if any, as to
17 whether investigations of your officers could be
18 conducted without the chief being advised?

19 A. It was my understanding the chief of police has
20 to sign off on the professional standards unit
21 complaint form before an investigation is initiated.

22 Q. All right, so this is, indeed, a change?

23 MS. SANFRANCESCO: I'm going to object
24 again, just to the form of the question, in terms of

William Scott McLaren

37

1 his earlier testimony about inquiries versus
2 investigation in that question.

3 Q. All right, I'll withdraw the question. I think
4 it may have been asked and answered.

5 Do you know whether there have been
6 investigations conducted on New Castle County Police
7 officers that have not been authorized or assigned to
8 professional standards?

9 A. Yes.

10 Q. Have there been any situations where you've
11 been forced to discipline officers who you believe did
12 not deserve the punishment that they deserved?

13 A. Forced to, no.

14 Q. Is Mr. Sapp involved in any decisions with
15 regard to officer discipline?

16 A. I would keep Mr. Sapp apprised of what's going
17 on with the investigation, but as far as him saying
18 this is what this officer should or shouldn't get, no.

19 Q. No, that has not happened?

20 A. Discussions have happened about discipline.

031006wm jp

21 Q. Right.

22 A. And only his, his direction was I had the last
23 call on discipline, and whatever I deemed was
24 appropriate, it would stand.

□ William Scott McLaren

38

1 Q. Okay. I understand you have pretty close
2 contact with Mr. Sapp, the director of public safety,
3 because he's right across the hall from you, correct?

4 A. Professional.

5 Q. I'm sorry?

6 A. Professional contact, yes.

7 Q. Well, that's what I meant.

8 A. Right.

9 Q. I didn't mean anything otherwise.

10 what is your understanding as to whether,
11 when you present something to Guy Sapp, whether he's
12 able to make a decision on that or whether he has to,
13 in turn, contact the Government Center before a
14 decision is rendered?

15 A. A lot of times he would ask to -- you know, he
16 would think about it. He would ask if we have to move
17 on this right away, and the majority of issues that we
18 don't have to move on right away, he would say he
19 would like to get back to me on those issues. I don't
20 know what kind of marching orders he has or orders
21 that he has to abide by. we've never discussed that.

22 Q. So he doesn't tell you with whom he may speak
23 about these various issues?

24 A. No.

□ William Scott McLaren
Page 32

39

031006wm jp

15 separate line for that, but we do of course have an
16 overtime line, so I imagine it would be coming out of
17 one of those lines.

18 Q. All right. Well, just so you have some fair
19 warning, I'm going to make that request of your
20 attorneys, and I hope that doesn't have to put a lot
21 of additional burdens on you. But maybe you could get
22 somebody who can take care of that for us.

23 (Discussion held off the record.)

24 MR. MARTIN: All right. Let's go back on.

William Scott McLaren

62

1 Last, let me mark this as McLaren 1,
2 please.

3 (McLaren Exhibit No. 1 was marked for
4 identification.)

5 BY MR. MARTIN:

6 Q. All right, I've handed you, and it's been
7 marked as McLaren 1, what is marked on top as noted as
8 "Directive 34, Promotions" is the heading, "Revised
9 1-1-04." First of all, are you familiar with this
10 document?

11 A. Yes, I am.

12 Q. Do you know whether this document is still in
13 effect?

14 A. Yes, it is.

15 Q. And do you know whether there have been any
16 revisions since 1-1-04?

17 A. No.

18 Q. No, there have not been?

19 A. No, there has not been, but the most recent
Page 52

031006wm jp

20 promotion process is being redesigned as we speak as
21 far as using an outside assessment center.

22 Q. Okay.

23 A. So it's a two-part answer.

24 Q. I see that, all right. The promotional process

William Scott McLaren

63

1 will involve this outside entity that's not --

2 A. That's right.

3 Q. -- set forth in this Directive 34.

4 A. Yes, sir, correct.

5 Q. Let me just direct your attention to part 1,
6 section B, where it says, and I quote, the, "The chief
7 of police or designee shall perform that function for
8 promotions below the rank of captain."

9 Do you know whether that's still
10 effective?

11 A. Yes, it's still a directive.

12 Q. All right. And part C, where it says, "The
13 chief of police is the authority for all promotions
14 within the police department."

15 A. Yes.

16 Q. That's still in effect?

17 A. Yes.

18 Q. Now, has this in any way been modified by the
19 new ordinances that you referred to during your
20 deposition testimony?

21 A. I'm being told by the director yes.

22 Q. You're being told that these particular items
23 that we have enumerated may be changed?

24 A. I don't want to -- not these items per se, but
Page 53

031006wm jp

□ William Scott McLaren

64

1 as far as overall full authority to make decisions
2 based on this new ordinance rests solely with the
3 director, overall authority.

4 Q. Okay. And this Directive 34 was in effect when
5 you were appointed acting chief at the end of July,
6 correct?

7 A. Yes, sir, yes, sir.

8 Q. And to the best of your knowledge, it's still
9 in effect?

10 A. Yes, sir.

11 MR. MARTIN: Okay, thank you. Nothing
12 further.

13 BY MR. GODDESS:

14 Q. Let me just ask a question I guess in a way
15 it's already been asked of you. In addition to the
16 preparation that you mentioned in response to
17 Mr. Martin's question, did you talk to Mr. Navarro
18 before this deposition?

19 A. Mr. Navarro works directly for me, so we talk
20 over a host of issues. But as far as preparing for
21 this and what to say, what not to say, no.

22 Q. Well not what to say --

23 A. Correct.

24 Q. -- but what you would say if asked X or Y?

□ William Scott McLaren

65

1 A. No.

2 Q. It wasn't that kind of conversation?